

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH LOPES,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

No. 1:22-cv-00162-ADA-BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DISMISSAL OF ACTION FOR FAILURE TO
PROSECUTE

(ECF No. 23)

Plaintiff Joseph Lopes is a former state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against Defendant Lima for failure to protect and failure to intervene in violation of the Eighth Amendment.

On August 24, 2022, Chief Judge Kimberly J. Mueller issued an order reassigning this action to the undersigned for all further proceedings. (ECF No. 18.) On August 30, 2022, the assigned Magistrate Judge issued an order granting, in part, Defendant's motion for an extension of time to file a responsive pleading. (ECF No. 20.) The August 24 order was returned on September 2, 2022 as "Undeliverable, Return to Sender, Not Deliverable as Addressed," and the August 30 order was returned on September 6, 2022 as "Undeliverable, Refused."

In addition, Defendant has indicated that Plaintiff has been released on parole and has not informed the Court of his current address or telephone number. (ECF No. 19 at 2, 4.)

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1 On November 28, 2022, following Plaintiff's failure to file a notice of change of address
2 or otherwise communicate with the Court, the Magistrate Judge issued findings and
3 recommendations recommending dismissal of this action, without prejudice, based on Plaintiff's
4 failure to prosecute. (ECF No. 23.) Those findings and recommendations were served on the
5 parties and contained notice that any objections thereto were to be filed within fourteen days after
6 service. (*Id.* at 3.) On December 5, 2022, the findings and recommendations were returned as
7 "Undeliverable, Return to Sender, Refused, Unable to Forward."

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court concludes that the Magistrate Judge's findings and recommendations are supported by the record and proper analysis.

12 Accordingly,

- 13 1. The findings and recommendations issued on November 28, 2022, (ECF No. 23),
14 are adopted in full;

15 2. This action is dismissed, without prejudice, due to Plaintiff's failure to prosecute;
16 and

17 3. The Clerk of Court is directed to close this case.

20 || IT IS SO ORDERED.

21 || Dated: February 14, 2023


John H. Hargan